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## **UNITED STATES BANKRUPTCY COURT**

### **NORTHERN DISTRICT OF CALIFORNIA**

#### **SAN JOSE DIVISION OPEN CALENDAR PROCEDURE**

The San Jose Division utilizes an Open Calendar Procedure for the scheduling of certain matters. This procedure will allow counsel to self-select an available date and time on the appropriate San Jose division judge's calendar and serve notice of that date and time without first having to obtain the date and time from the calendar clerk. Procedures for each judge is provided below.

The court encourages all parties to set matters using the Open Calendar Procedure whenever possible. The courtroom deputy for each judge will be available by telephone to schedule hearings not available for setting on the open calendar, or as needed for emergency matters.

#### **Open Calendar Procedure for Judge Johnson**

Stephen L. Johnson, Bankruptcy Judge  
Courtroom 3099

Tanya Bracegirdle, Courtroom Deputy for Judge Stephen Johnson  
408-278-7556

[tanya\\_bracegirdle@canb.uscourts.gov](mailto:tanya_bracegirdle@canb.uscourts.gov)

#### **1. Types of proceedings that may be set in accordance with the Open Calendar Procedure:**

Motions for Relief from Stay for San Jose Chapter 7 and Chapter 11 cases, on designated Tuesdays at 10:00 a.m.

Motions for Relief from Stay for Chapter 13 cases, on designated Tuesdays at 10:30 a.m.

Motions in Chapter 7 and Chapter 11 main cases, on designated Wednesdays at 2:00 p.m.

Final Accounts, on designated Wednesdays at 1:30 p.m.

Fee Applications for Chapter 7 or Chapter 11 cases, on designated Wednesdays at 1:30 p.m.  
Chapter 11 status conference hearings on designated Thursdays at 10:00 a.m.  
Chapter 11 Disclosure Statement and Confirmation hearings, on designated Thursdays at 1:30 p.m.  
All matters relating to the Chapter 13 main cases, on designated Thursdays at 10:00 a.m.  
Motions in adversary cases, on designated Mondays at 1:30 p.m.

## 2. The Open Calendar Procedure will not be available for the following:

Case Management Conferences in adversary cases

*The Case Administrator will select the date and time for the initial Case Management Conference before issuing the summons.*

Chapter 11 hearing on confirmation of plan.

*Following the approval of the disclosure statement, the court will schedule the date and time for the hearing on confirmation of plan.*

Chapter 11 status conferences.

*The court will schedule and notice a status conference on the first available status conference date after the date set for the Section 341 meeting of creditors.*

Trials in adversary proceedings.

*All trials will be assigned a date and time by Judge Johnson.*

Any matter requiring an order shortening time.

*An application for an order shortening time under B.L.R. 9006-1 is required before a hearing date will be set. Counsel should include preferred calendar dates and the notice proposed to affected parties. Once Judge Johnson has reviewed the application, a law clerk or courtroom deputy will telephone with the date and time of the hearing as well as any special instructions regarding notice.*

Matters set by the court pursuant to an order to show cause.

## 3. Procedure.

a. In order to utilize the Open Calendar Procedure, counsel should select an available date and time as shown on the appropriate attached list for the judge assigned the main case. The lists will also be posted on the court's Internet website at <http://www.canb.uscourts.gov>. The date selected must be no earlier than as required by applicable national or local rules, as nothing in this Open Calendar Procedure alters applicable time limits.

b. After selecting an available date and time, counsel should serve proper notice of the matter in accordance with applicable rules.

**Note:** If a motion for relief from stay is set by a party in accordance with this Open Calendar Procedure more than thirty days after the date the motion is filed, the party will be deemed to waive the thirty-day limitation of 11 U.S.C. §362(e).

c. No later than **three** days after the service on other parties, counsel should file all appropriate papers with the court. Counsel need not include copies of deeds of trust with motions for relief from stay or motions to avoid liens or similar motions. The court will request such copies if necessary.

d. Once a matter is set by the Open Calendar Procedure, with the exception of certain matters in adversary proceedings or matters noticed to all creditors, continuances may be handled through the assigned judge's courtroom deputy, Tanya Bracegirdle, by telephone at 408-278-7556 or by e-mail at [tanya\\_bracegirdle@canb.uscourts.gov](mailto:tanya_bracegirdle@canb.uscourts.gov). A minimum notice of 24 hours for any continuance is encouraged. Counsel must receive either written confirmation of a continuance by e-mail or telephonically from the courtroom deputy. Written stipulations and a proposed order are required for all Case Management Conferences, Pre-Trials and scheduled Trials. Matters noticed to all creditors must be continued in open court.

e. Counsel **must not** request that the courtroom deputy call back to confirm that the matter has been placed on the calendar. Counsel desiring confirmation that a matter has been placed on the calendar by the Open Calendar Procedure should review the published calendars in the local legal newspapers, or its calendar on the bankruptcy court's Internet site.

f. Failure to comply with the foregoing Open Calendar Procedure will result in the matter not being placed on calendar.

**Note:** Occasionally there may be a need to reschedule matters that have been placed on the calendar in accordance with this Open Calendar Procedure. Typically this will be because of calendar congestion or unforeseen schedule changes. In those instances the judge's courtroom deputy will contact the moving party as soon as possible so that a notice of a rescheduled hearing maybe disseminated.

## **Open Calendar Procedure for Judge Hammond**

M. Elaine Hammond, Bankruptcy Judge

Courtroom 3020

Millie McGowan, Courtroom Deputy for Judge M. Elaine Hammond

408-278-7578

[millie\\_mcgowan@canb.uscourts.gov](mailto:millie_mcgowan@canb.uscourts.gov)

### 1. Types of proceedings that may be set in accordance with the open calendar procedure:

Chapter 7 and 11 cases:

Motions for Relief from Stay for San Jose Chapter 7 and Chapter 11 cases are heard on designated Fridays at 10:00 a.m. in Courtroom 3020.

Motions in Chapter 7 and Chapter 11 main cases are heard on the Law and Motion calendar on designated Thursdays at 10:30 a.m. in Courtroom 3020. This includes hearings on final accounts, fee applications and Chapter 11 disclosure statement hearings.

Chapter 13 cases:

Motions for Relief from Stay for Chapter 13 cases are heard on designated Fridays at 10:00 a.m. in Courtroom 3020. These hearings are held in San Jose. Any party may appear by telephone.

Motions in a Chapter 13 main case *that do not require participation by the Chapter 13 Trustee* (e.g. objections to claim, motions to value) are heard on the Law and Motion calendar on designated Thursdays at 9:30 a.m. in Courtroom 3020. They may also be heard on the Chapter 13 Confirmation calendar.

Hearings on confirmation of a Chapter 13 plan and all other matters requiring the presence of the Chapter 13 Trustee are heard on one designated Friday in Courtroom 3020.

#### Adversary Proceedings:

Motions in adversary proceedings are heard on designated Mondays at 11 a.m. in Courtroom 3020.

#### 2. The open calendar procedure is not available for the following:

Case management conferences in adversary proceedings.

Plan confirmation hearings in chapter 11 cases.

Status conferences in chapter 11 cases.

Trials in adversary proceedings.

Matters set by the court pursuant to an order to show cause.

Hearings on reaffirmation agreements.

Any matter in which the parties anticipate more than 30 minutes of court time will be required.

Any matter requiring an order shortening time.

Any request that the Court should consider a matter on shortened time must be presented in an Application for an Order Shortening Time. Such Applications must comply with B.L.R. 9006-1 and Rule 9006(c) and must include a copy of the motion and supporting memorandum of points and authorities (but without supporting declarations, exhibits,

requests for judicial notice, etc.) that the Applicant wishes the Court to consider on shortened time. In addition, such Applications should include a proposed briefing schedule and a proposed hearing date and time. The Applicant must support the Application with a declaration detailing the efforts to meet and confer with all affected parties concerning an abbreviated schedule and expedited hearing date. Generally, the Court will not convene hearings on Applications for Order Shortening Time.

#### 3. Procedure:

a. In order to utilize the open calendar procedure, counsel should select an available date and time which can be viewed at:

<http://www.canb.uscourts.gov/judges/hammond/calendar-year-2015>. The date selected must be no earlier than as required by applicable national or local rules, as nothing in this open calendar procedure alters applicable time limits.

b. After selecting an available date and time, counsel should serve proper notice of the matter in accordance with applicable rules. Note: If a hearing on a motion for relief from stay

is set in accordance with this open calendar procedure more than thirty days after the date the motion is filed, the party will be deemed to have waived the thirty-day limitation of 11

U.S.C. § 362(e).

c. No later than **three** days after the service on other parties, counsel should provide chambers with copies of all appropriate papers in accordance with Judge Hammond's chambers copies policy, which can be viewed at:

<http://www.canb.uscourts.gov/procedure/hammond/judge-hammonds-policy-chambers-copies>

d. Once a matter is set by the open calendar procedure, with the exception of certain matters in adversary proceedings or matters noticed to all creditors, continuances may be handled through the Judge's courtroom deputy, Millie McGowan, by telephone at (408) 278-7578 or by e-mail at [millie\\_mcgowan@canb.uscourts.gov](mailto:millie_mcgowan@canb.uscourts.gov). A minimum of 24 hours for any continuance is encouraged. Counsel must receive e-mail or telephonic confirmation of a continuance from the courtroom deputy. Written stipulations and a proposed order are required for continuance of all case management conferences, pre-trials and scheduled trials. Matters noticed to all creditors must be continued on seven days' written notice or in open court.

e. Counsel **must not** request that the courtroom deputy call back to confirm that the matter has been placed on the calendar. Counsel desiring confirmation that a matter has been placed on the calendar by the open calendar procedure should review the calendar on the bankruptcy court's website.

f. Failure to comply with the foregoing open calendar procedure will result in the matter not being placed on calendar.

**Note:** Occasionally there may be a need to reschedule matters that have been placed on the calendar in accordance with this open calendar procedure. Typically this will be because of calendar congestion or unforeseen schedule changes. In those instances, the courtroom deputy will contact the moving party as soon as possible so that a notice of a rescheduled hearing may be disseminated.

### **Open Calendar Procedure for Judge Weissbrodt**

Arthur Weissbrodt, Bankruptcy Judge  
Courtroom 3020, San Jose  
Brook Esparza, Courtroom Deputy for Judge Arthur Weissbrodt  
408-278-7564  
[brook\\_esparza@canb.uscourts.gov](mailto:brook_esparza@canb.uscourts.gov)

#### 1. Types of proceedings that may be set in accordance with the Open Calendar Procedure :

Motions for Relief from Stay for San Jose Chapter 7, Chapter 11 or Chapter 13 cases.  
Motions in San Jose Chapter 7 and Chapter 11 main cases

Final Accounts

Fee Applications for Chapter 7 or Chapter 11 cases

Motions in adversary cases

Chapter 11 Disclosure Statement hearings

All matters relating to the Chapter 13 main cases

2. The Open Calendar Procedure will not be available for the following :

Case Management Conferences in adversary cases

*The Case Administrator will select the date and time for the initial Case Management Conference before issuing the summons.*

Chapter 11 hearing on confirmation of plan.

*Following the approval of the disclosure statement, the court will set the date and time for the hearing on confirmation of plan.*

Chapter 11 status conferences.

*The court will schedule and notice a status conference on the first available status conference date after the date set for the Section 341 meeting of creditors.*

Trials in adversary proceedings.

*Counsel will be contacted by telephone by the courtroom deputy Brook Esparza and advised of the exact date and time for trial.*

Evidentiary hearings of any type for a main case or adversary case will be scheduled by the court.

Any matter requiring an order shortening time.

*An application for an order shortening time under B.L.R. 9006-1 is required before a hearing date will be set. Counsel should include preferred calendar dates and the notice proposed to affected parties. Once Judge Weissbrodt has reviewed the application, a law clerk or courtroom deputy will telephone with the date and time of the hearing as well as any special instructions regarding notice.*

Matters set by the court pursuant to an order to show cause.

3. Procedure .

a. In order to utilize the Open Calendar Procedure, counsel should select an available date and time as shown on the appropriate attached list for the judge assigned the main case. The lists of available dates will be updated regularly and will be placed on bulletin boards in the clerk's office and outside of each judge's courtroom. The lists will also be posted on the

court's Internet website at <http://www.canb.uscourts.gov> . The date selected must be no earlier than as required by applicable national or local rules, as nothing in this Open Calendar Procedure alters applicable time limits.

b. After selecting an available date and time, counsel should serve proper notice of the matter in accordance with applicable rules.

**Note:** If a motion for relief from stay is set by a party in accordance with this Open Calendar Procedure more than thirty days after the date the motion is filed, the party will be deemed to waive the thirty-day limitation of 11 U.S.C. §362(e).

c. No later than **three** days after the service on other parties, counsel should file all appropriate papers with the court, including one copy marked "Clerk's Copy".

d. Once a matter is set by the Open Calendar Procedure, with the exception of certain matters in adversary proceedings or matters noticed to all creditors, continuances may be handled through the assigned judge's courtroom deputy, Brook Esparza, by telephone at 408-278-7564 or by e-mail at [brook\\_esparza@canb.uscourts.gov](mailto:brook_esparza@canb.uscourts.gov) . A minimum notice of 24 hours for any continuance is encouraged. Counsel must receive either written confirmation of a continuance by e-mail or telephonically from the courtroom deputy. Written stipulations and a proposed order are required for all Case Management Conferences, Pre-Trials and scheduled Trials. Matters noticed to all creditors must be continued in open court.

e. Counsel **must not** request that the courtroom deputy call back to confirm that the matter has been placed on the calendar. Counsel desiring confirmation that a matter has been placed on the calendar by the Open Calendar Procedure should review the published calendars in the local legal newspapers, posted outside the division's courtrooms or its calendar on the bankruptcy court's Internet site.

f. Failure to comply with the foregoing Open Calendar Procedure will result in the matter not being placed on calendar.

**Note:** Occasionally there may be a need to reschedule matters that have been placed on the calendar in accordance with this Open Calendar Procedure. Typically this will be because of calendar congestion or unforeseen schedule changes. In those instances the judge's courtroom deputy will contact the moving party as soon as possible so that a notice of a rescheduled hearing may be disseminated.

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**Source URL (modified on 08/25/2015 - 3:33pm):**

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